

## ATTACKS JURY LAW IN COURT

### Robertson Claims Bailiff Act Is Invalid.

## QUESTION RAISED IN RATHBURN CASE

### Motion Made to Quash Grand Jury Panel—Bill Was Not Properly Passed.

**T**HE validity of the Bailiff act, already the subject of considerable discussion, was attacked before Judge Humphreys yesterday in a motion made by Attorney Robertson to quash the indictment against William Kolo Rathburn for perjury. Argument on the motion was postponed until Monday when it will be finally disposed of. If the attack on the Bailiff act is successful it is likely to throw out all the indictments returned by the last grand jury, and of all other grand juries drawn by virtue of that law.

Attorney Robertson's motion is based on technical grounds, namely that the bill was not read three times in each house as is required by law.

This question was raised yesterday after the court had overruled a demurrer to the indictment in the same case on the ground that there was a duplicity of charges in the indictment as returned. Mr. Robertson contended that the indictment charged him with half a dozen separate offenses. He said that perjury consisted in testifying falsely to a material fact, and as several facts were alleged to have been sworn to, falsely by him, all of which were said to be material, he argued that one jurymen might find him guilty of one charge, and another of the second fact. It was the duty of the prosecution, he said, to allege the exact nature of the crime of which he was charged. In the indictment the defendant was alleged to have testified that he left his home alone, and stopped five minutes in front of Carter's house, looking at a bright light on the inside, then drove on, until rain threatened, he returned home. Until that time he did not know he had been shot. The indictment alleges that he was accompanied by some one, and that he was inside Carter's grounds, at the time he was shot.

Mr. Cathcart replied to the contention of Mr. Robertson with a long array of authorities showing that the indictment was proper, and that different allegations of perjury might be set out in one count.

Judge Humphreys denied the demurrer holding that separate offenses might be set out in one indictment, otherwise defendant could have been charged with, and tried for half a dozen different offenses.

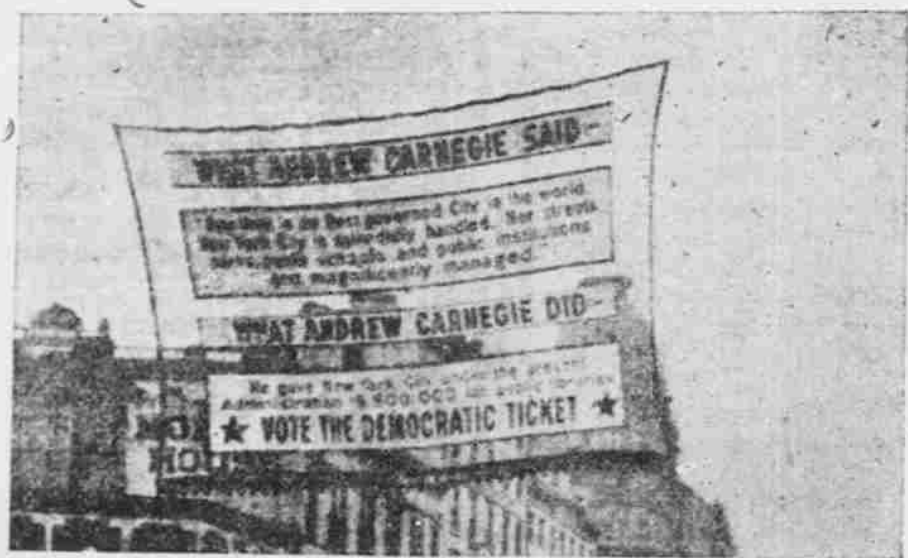
Immediately following the court's ruling Deputy Attorney General Cathcart asked that the case be set down for trial, and then it was that Robertson sprung his little surprise, by reading the following motion:

"And now comes the said William Kolo Rathburn, defendant herein, and doth challenge the array of the panel of jurors summoned to attend this present term of this court to try the causes therein pending, including the above entitled cause, on the ground that said panel was selected and summoned by an officer having no lawful power or authority to select or summon said panel of jurors, to wit, a bailiff of this court. And this said defendant is ready to verify; wherefore he prays judgments that said panel may be quashed."

He stated that he wished to introduce records and evidence as to the truth of the motion presented and asked that a day for hearing the matter be fixed. Mr. Cathcart replied that it was very important that early action be taken upon a question of such importance and asked that the hearing be set for as early a day as was convenient. The court thereupon fixed the time for ten o'clock next Monday morning.

The principal point raised by Mr.

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## WORK ON THE NEW WHARF TO BE COMMENCED AT ONCE

### Driving of Piles for the Roadway On Before Daybreak and Construction Will be Rushed Along.

Today the first piles for the new wharf which is to be built between the railroad wharf number one and Queen street will be driven. A large floating pile-driver is lying at the corner of the seawall at Queen street and the river, and the work of driving the large piles which are to support the approach to the wharf will be begun at 5 o'clock in the morning. The work will be done at this early time of the day to take advantage of the early high tide, which will allow the pile-driver to come close up to the seawall.

It is a great undertaking and probably three or four months will elapse before the new wharf is completed. The wharf itself will be between the railroad wharf number one and the seawall of Queen street nearly parallel with both these places. An approach to this wharf will be built from the corner of Queen street and the river, which will extend to the main wharf joining it at an angle of ninety degrees. The wharf will be 840 feet long and 100 feet wide. The walkway end of it will be opposite the inner side of the Emma's wharf. It will be supported by 1,000 piles, there being eleven piles to the width. There will be two slips for vessels to enter. One slip will be between the railroad wharf and the new wharf. This slip will be about 160 feet wide. The other slip will be between the wharf and Queen street and will end at the mauka corner by the approach to the wharf. The approach will be thirty-two feet wide with four piles to the width and 240

feet long. The slip between the wharf and Queen street will be 200 feet wide. There has been great activity along the river and at Aala park lately getting the material from the ships which brought it from the Sound and piling it up along the river's sides. Practically all the material is now on hand, the last shipment having been brought on the Hind. All the lumber had to be gotten out of the river, into which it was thrown from the vessels, very quickly to prevent it from deteriorating from the many barnacles and marine growths, which spoil woodwork so quickly in tropical water.

At Aala park a force of workmen have been busy preparing the piles which are to be used for the wharves. These piles are all about eighty feet in length as they have to be driven down very deep in the soft mud which constitutes the bottom of this part of the harbor. They have all been rafted up the river to Aala park where they were hauled ashore. They have been furnished with tarred felt coverings to prevent deterioration from marine growth and on the top of these layers copper plate have been riveted.

When the wharf is finished a large shed covered with corrugated iron will be erected on it. This shed will probably be 600 feet long and about sixty feet wide. As the approach will be about fourteen inches above the level of the sea wall the little piece of road leading from the street proper to the water's edge will have to be filled out so as to be in the same level as the floor of the approach. The work is in charge of Mr. George H. Allen, but at present only a comparatively small gang of men is at work. As soon as the work gets started, however, quite a large number of laborers will be required.

pains in my chest disappeared entirely. I am most respectfully yours for health, Ralph S. Meyers. 64 Thirty-seventh street, Wheeling, W. Va. For sale by Benson, Smith & Co., Ltd., wholesale agents.

### Antarctic Expedition.

NEW YORK, Oct. 26.—A cable to the Post from London says: The Swedish Antarctic expedition leaves Falmouth tonight for Buenos Ayres and the Falkland Islands, under the leadership of Dr. Otto Nordenskjöld. His first task will be to determine whether Graham Land is a group of islands or part of an extensive continent. If the latter, it will be possible to advance for a considerable distance by this route, and a winter station will be established for six or seven persons, under the command of Dr. Nordenskjöld. Observations will be carried out in harmony with those of the British and German expeditions.

With the ship two or three members of the scientific staff will make the best use of the Antarctic summer, and the command of the ship will be carried out in harmony with those of the British and German expeditions.



The illustration shows the famous war drums of Ngora Menekle, ruler of Abyssinia. These drums can be made to render the orders of the emperor in tones closely resembling the human voice. From ancient times orders have been issued by means of these drums. While on the march they are carried on the backs of mules, the drummers riding behind.

then will return to South America and the Falkland Islands, where they will remain for the winter, devoting their principal attention to biological work. On the approach of spring work will be continued in the neighborhood of the South Shetlands, along the ice barrier, until it is found possible to push on to the winter station. Then it will depend upon circumstances whether the united expedition will attempt to examine carefully the route followed by Weddell in 1823, with the possible co-operation of the Scottish expedition under Bruce. The return to Sweden is fixed for the end of the summer of 1902-03. Dr. Nordenskjöld will collect specimens of all accessible fossil-bearing rocks.

### The Apes of Gibraltar.

It is perhaps not universally known that Gibraltar, the fortified rock and British stronghold commanding the entrance to the Mediterranean, and thus the maritime route to the Far East, is the only spot in Europe where wild apes are still to be found. A correspondent of the Philadelphia Record, who recently spent some days in Gibraltar, writes as follows: One morning I took a horse and rode up to the signal station. At a height of about 900 feet I first noticed a herd of some fifteen apes, and after having reached the height of a little over 1,100 feet I saw several small herds of from ten to twelve. They all seemed to be very tame and inoffensive. However, when I returned to my hotel I was told by a Highlander officer that my experience was not the rule. The English geologist, P. L. Skelater, spent a few weeks in Gibraltar in September, 1900, for the sole purpose of collecting definite information as to the number of apes still in existence on the rock, and he found their number to be in the neighborhood of 150. One evening, when Mr. Skelater descended with his dog a swarm of apes awaited him about 200 feet above the Alameda, and as soon as he approached the animals opened a furious bombardment of stones upon him and his dog, by which the latter was instantly killed. Mr. Skelater escaped only with difficulty. Some of the stones the apes used were as big as a coconut.

The animals enjoyed the patronage of the British authorities for a long time, but as it has happened several times that they did great damage to the magnificent fruit gardens of Europa Point, it was left to the proprietors to shoot them.

## WEEDON TALKS OF THE PARADISE

### Large Audience Greet Him and Enjoy His Illustrated Lecture.

Walter C. Weedon, of this city, who is now making a lecture tour of the eastern States with "Hawaii, the Paradise of the Pacific," as his central theme, is doing much to advertise the islands. Beginning at Buffalo, and making himself heard in Boston, he has lately been heard from at Cleveland, Ohio. The Chamber of Commerce is in receipt of a handbill from Cleveland, Ohio, which illustrates the method by which the Honolulu attracts his audiences:

"Hawaii—The wonderland, the Paradise of the Pacific; illustrated lecture by Walter C. Weedon, of Honolulu, at the Euclid Avenue Christian Church.

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"Mr. W. C. Weedon's lecture last night in the Amphitheater upon Hawaii, the Paradise of the Pacific, held the attention of his audience throughout, showing splendid views in connection with it. He has lived at Honolulu for many years, and has a perfect knowledge of his subject."—Chautauqua Herald.

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